United Nations A/CN.9/473

General Assembly

Distr.: General
16 May 2000

Original: English

United Nations Commission on International Trade Law
Thirty-third session
New York, 12 June-7 July 2000

Training and technical assistance

Note by the Secretariat

Contents

		Paragraphs	Page
I.	Introduction	1-2	2
II.	Importance of texts of the United Nations Commission on International Trade Law	3-4	2
III.	Technical assistance to the preparation and implementation of legislation	5-8	3
IV.	Seminars and briefing missions	9-12	3
V.	Participation in other activities	13-14	4
VI.	Internship programme	15-16	6
VII.	Future activities	17-18	6
VIII.	Financial resources	19-25	7

V.00-54001 (E)

I. Introduction

1. Pursuant to a decision taken at the twentieth session of the United Nations Commission on International Trade Law (UNCITRAL),[1] held in 1987, training and assistance activities count among the high priorities of UNCITRAL. The training and technical assistance programme carried out by the Secretariat under the mandate given by the Commission, in particular in developing countries and in countries with economies in transition, encompasses two main lines of activity: (a) information activities aimed at promoting understanding of international commercial law conventions, model laws and other legal texts; and (b) assistance to Member States with commercial law reform and adoption of UNCITRAL texts.

2. The present note lists the activities of the Secretariat subsequent to the issuance of the previous note submitted to the Commission at its thirty-second session, in 1999 (A/CN.9/461), and indicates possible future training and technical assistance activities in the light of the requests for such services from the Secretariat.

II. Importance of texts of the United Nations Commission on International Trade Law

3. In an era of globalization, increasing importance is being attributed by Governments, domestic and international business communities and multilateral and bilateral aid agencies to the improvement of the legal framework for international trade and investment. UNCITRAL has an important function to play in that process because it has produced and promotes the use of legal instruments in a number of key areas of commercial law that represent internationally agreed standards and solutions acceptable to different legal systems. Those instruments include:

(a) In the area of sales, the United Nations Convention on Contracts for the International Sale of Goods[2] and the United Nations Convention on the Limitation Period in the International Sale of Goods;[3]

(b) In the area of dispute resolution, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards[4] (a United Nations convention adopted prior to the establishment of the Commission, but actively promoted by it), the UNCITRAL Arbitration Rules,[5] the UNCITRAL Conciliation Rules,[6] the UNCITRAL Model Law on International Commercial Arbitration[7] and the UNCITRAL Notes on Organizing Arbitral Proceedings;[8]

(c) In the area of procurement, the UNCITRAL Model Law on Procurement of Goods, Construction and Services;[9]

(d) In the area of banking, payments and insolvency, the United Nations Convention on Independent Guarantees and Standby Letters of Credit (General Assembly resolution 50/48, annex), the UNCITRAL Model Law on International Credit Transfers,[10] the United Nations Convention on International Bills of Exchange and International Promissory Notes (General Assembly resolution 43/165, annex) and the UNCITRAL Model Law on Cross-Border Insolvency;[11]

(e) In the area of transport, the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules),[12] and the United Nations Convention on the Liability of Operators of Transport Terminals in International Trade;[13]

(f) In the area of electronic commerce and data interchange, the UNCITRAL Model Law on Electronic Commerce.[14]

4. Harmonization and unification of the law of international trade maximizes the ability of business parties from different States to successfully plan and implement commercial transactions and, thus, fosters investors' confidence. In its resolution 54/103 of 9 December 1999, the General Assembly reaffirmed its conviction that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples. The growing interest in commercial law reform represents a crucial opportunity for UNCITRAL to further those objectives significantly, as envisaged by the Assembly in its resolution 2205 (XXI) of 17 December 1966.

III. Technical assistance to the preparation and implementation of legislation

5. Technical assistance is provided to States preparing legislation based on UNCITRAL texts. Such assistance is provided in various forms, including review of preparatory drafts of legislation from the viewpoint of UNCITRAL texts, technical consultancy services and assistance in the preparation of legislation based on UNCITRAL texts, preparation of regulations implementing such legislation and comments on reports of law reform commissions, as well as briefings for legislators, judges, arbitrators, procurement officials and other users of UNCITRAL texts embodied in national legislation. Another form of technical assistance provided by the Secretariat consists of advising on the establishment of institutional arrangements for international commercial arbitration, including training seminars for arbitrators, judges and practitioners in the area.

6. In its resolution 54/103, the General Assembly reaffirmed the importance, in particular for developing countries, of the work of the Commission concerned with training and technical assistance in the field of international trade law, such as assistance in the preparation of national legislation based on legal texts of the Commission, while expressing its concern that activities undertaken by other bodies of the United Nations system in the field of international trade law without coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law, as stated in its resolution 37/106 of 16 December 1982; and appealed to the United Nations Development Programme and other bodies responsible for development assistance, such as the International Bank for Reconstruction and Development and the European Bank for Reconstruction and Development (EBRD), as well as to Governments in their bilateral aid programmes, to support the training and technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission.

7. The secretariat of the Commission has taken steps to increase cooperation and coordination with development assistance agencies, with a view to ensuring that the legal texts prepared by the Commission and recommended by the General Assembly for consideration are in fact so considered and used. From the standpoint of recipient States, UNCITRAL technical assistance is beneficial because of the Secretariat's accumulated experience in the preparation of UNCITRAL texts.

8. States that are in the process of revising their trade legislation may wish to request the UNCITRAL secretariat to provide technical assistance and advice.

IV. Seminars and briefing missions

9. The information activities of UNCITRAL are typically carried out through seminars and briefing missions for government officials from interested ministries (such as trade, foreign affairs, justice and transport), judges, arbitrators, practising lawyers, the commercial and trading community, scholars and other interested individuals. Seminars and briefing missions are designed to explain the salient features and utility of international trade law instruments of UNCITRAL. Information is also provided on certain important legal texts of other organizations, for example, Uniform Customs and Practice for Documentary Credits and Incoterms of the International Chamber of Commerce and the Convention on International Factoring of the International Institute for the Unification of Private Law (Unidroit).

10. In resolution 54/103, the General Assembly expressed the desirability for increased efforts by the Commission, in sponsoring seminars and symposia, to provide training and technical assistance.

11. Lectures at UNCITRAL seminars are generally conducted by one or two members of the UNCITRAL secretariat, experts from the host countries and, occasionally, external consultants. After the seminars, the secretariat remains in contact with seminar participants in order to provide the host countries with the maximum possible support during the process leading up to the adoption and use of UNCITRAL texts.

12. Since the previous session, the secretariat of the Commission has organized seminars in a number of States, which have typically included briefing missions. The following seminars were financed with resources from the UNCITRAL trust fund for symposia:

(a) Johannesburg, South Africa (6 and 7 May 1999), seminar held in cooperation with the

Ministry of Foreign Affairs and the University of Stellenbosch (approx. 50 participants);

(b) Stellenbosch, South Africa (9 and 10 May 1999), seminar held in cooperation with the Ministry of Foreign Affairs and the University of Stellenbosch (approx. 50 participants);

(c) Pretoria (11 and 12 May 1999), seminar held in cooperation with the Ministry of Foreign Affairs and the University of Stellenbosch (approx. 30 participants);

(d) Yaoundé (10-12 May 1999), seminar held in cooperation with the Government of Cameroon and the African Development Bank (AFDB) (approx. 200 participants);

(e) Abidjan (13 and 14 May 1999), seminar held in cooperation with the Government of Cameroon and AFDB (approx. 30 participants);

(f) Rio de Janeiro, Brazil (12 and 13 August 1999), seminar held in cooperation with the Ministry of External Relations (approx. 100 participants);

(g) Lima (19 and 20 August 1999), seminar held in cooperation with the Iberoamerican Institute for International Economic Law (approx. 60 participants);

(h) Cuzco, Peru (23-25 August 1999), seminar held in cooperation with the Iberoamerican Institute for International Economic Law (approx. 50 participants);

(i) Brasilia (30 and 31 August 1999), seminar held in cooperation with the Ministry of External Relations (approx. 140 participants);

(j) São Paulo, Brazil (2 and 3 September 1999), seminar held in cooperation with the Ministry of External Relations (approx. 150 participants);

(k) Moscow (2-4 November 1999), seminar held in cooperation with the Chamber of Commerce and Industry of the Russian Federation (approx. 60 participants);

(l) Antananarivo (6-8 March 2000), seminar held in cooperation with the Ministry of Consumers and Trade (approx. 40 participants).

V. Participation in other activities

13. Members of the UNCITRAL secretariat have participated as speakers in various seminars, conferences and courses where UNCITRAL texts were presented for examination and possible adoption or use. The participation of members of the secretariat in the seminars, conferences and courses listed below was financed by the institution organizing the events or by another organization:

(a) Dickinson Law School Summer Programme (Florence, Italy, 18 June 1999);

(b) Tenth Annual Workshop and Symposium on Arbitration of the Institute for Transnational Arbitration (Dallas, Texas, United States of America, 17 June 1999);

(c) Global Financial Services Conference, sponsored by the Commercial Finance Association and the Factors and Discounters Association (London, 9-11 June 1999);

(d) Tenth International Summer Academy, sponsored by Logistik und Transport-Consult (Sopron, Hungary, 23 and 24 June 1999);

(e) Round Table on Questions of Private International Law Raised by Electronic Commerce and the Internet, sponsored by the Hague Conference on Private International Law and the University of Geneva (Geneva, Switzerland, 2-4 September 1999);

(f) Symposium on Insolvency Reform: Building Effective Systems, sponsored by the World Bank (Washington, D.C., 14 and 15 September 1999);

(g) Colloquium on Technology and Law, sponsored by the University of Heidelberg (Heidelberg, Germany, 23 and 24 September 1999);

(h) Arbitration Seminar, sponsored by the World Intellectual Property Organization (WIPO) (Warsaw, 17 September 1999);

(i) Conference on Electronic Commerce and Intellectual Property, sponsored by WIPO (Geneva, Switzerland, 14-16 September 1999);

(j) Symposium on Insolvency Law Reforms, sponsored by the Asian Development Bank (Manila, 25-27 October 1999);

(k) Conference on Disputes in International Financial Transactions, sponsored by the Foundation of the National and International Arbitration Court of Venice (Venice, Italy, 22 and 23 October 1999);

(l) Regional Seminar on Electronic Commerce for African Countries, sponsored by the United Nations Conference on Trade and Development (UNCTAD) and the Ministry of Trade of Kenya (Nairobi, 7 and 8 October 1999);

(m) International Arbitration Seminar of the Arbitration Tribunal of the International Chamber of Commerce, sponsored by the German Foundation for International Legal Cooperation (Kiev, 25-27 October 1999);

(n) Annual Congress of Union Internationale des Avocats (Delhi, 3-6 November 1999);

(o) World E-Com Conference, sponsored by the West Australian Department of Commerce and Trade (Perth, Australia, 8-10 November 1999);

(p) Infrastructure Conference of the Asia-Pacific Forum of the International Bar Association (Manila, 10- 13 November 1999);

(q) Conference on Public Private Partnership—The Legal Framework for Privatization of Infrastructure Projects in Central and Eastern Europe, sponsored by the International Association of Young Lawyers (Warsaw, 18-20 November 1999);

(r) Conference on Insolvency Regimes in Asia: A Comparative Perspective, sponsored by the Organisation for Economic Cooperation and Development (OECD), the World Bank, the Asian Development Bank and the Australian Treasury (Sydney, Australia, 29 and 30 November 1999);

(s) Conference on Internet and Electronic Commerce, sponsored by the Ministry of Telecommunication and the Tunisian Internet Agency (Tunis, 9 and 10 November 1999);

(t) Chartered Institute of Arbitrators/Cairo Regional Centre for International Commercial Arbitration: Entry, Special Fellowship and Award Writing Courses (Cairo, 28 November-3 December 1999);

(u) Pan-African Arbitration Congress of the London Court of International Arbitration (Cairo, 4 December 1999);

(v) International Bar Association Conference on Uniform Commercial Laws, Infrastructure and Project Finance in Africa (Yaoundé, 9-11 December 1999);

(w) Fifth Legal Colloquium, sponsored by the European Central Bank (Frankfurt, Germany, 13 December 1999);

(x) Lectures on electronic commerce at the University of Bologna (Bologna, Italy, 21 and 22 December 1999);

(y) Arbitrators' Training Course, sponsored by the Arbitration Centre at Ein Shams University (Cairo, 24-28 January 2000);

(z) 2000 Global Internet Summit, sponsored by the George Mason University (Washington, D.C., 12-14 March 2000);

(aa) Lecture on the United Nations Convention on Independent Guarantees and Standby Letters of Credit, held at Cabinet Coudert Frères (Paris, 2 March 2000);

(bb) Symposium on International Commercial Arbitration in the Asia-Oceania Region, sponsored by the Institute for Socio-Economic Dispute Studies, Meijo University Graduate School of Law (Nagoya, Japan, 22 and 23 February 2000);

(cc) Alternative Dispute Resolution Workshop, sponsored by the Japan Commercial Arbitration Association (Nagoya, Japan, 24 February 2000);

(dd) Offshore E-Commerce Meeting, sponsored by IBC USA Conferences Inc. (Miami, Florida, United States, 22 February 2000);

(ee) International Conference on Electronic Commerce, Multilateral Rules and Impacts on Development, sponsored by the Commonwealth Secretariat and the Ministry of International Trade and Industry in Malaysia (Kuala Lumpur, 13-15 March 2000);

(ff) Lectures on electronic commerce at the University of Lecce (Lecce, Italy, 31 March 2000);

(gg) Conference on Arbitration and Conciliation as Methods of Settlement of Disputes and Alternatives to State Justice, sponsored by the University of Valencia, the Valencia Bar Association and the Chamber of Commerce (Valencia, Spain, 6 and 7 April 2000);

(hh) Annual Meeting of the Swiss Association of Communication Law (Zurich, Switzerland, 7 April 2000);

(ii) International Trade Law Post-Graduate Course, sponsored by the International Training Centre of the International Labour Organization (ILO) and the University Institute of European Studies (Turin, Italy, 26 April 2000);

(jj) EE Business Information Center Electronic Commerce Conference (Dubai, 26 April 2000).

14. The participation of members of the secretariat in the seminars, conferences and courses listed below was

financed with resources from the United Nations regular travel budget:

(a) International Federation of Insolvency Professionals (INSOL International) 1999 Regional Conference (Hamilton, 28-30 April 1999);

(b) Spring meeting of the Section on International Law and Practice of the American Bar Association (Hamilton, 1-3 May 1999);

(c) Commonwealth Law Ministers Meeting (Port-of-Spain, 5-7 May 1999);

(d) Twelfth Bled Electronic Commerce Conference, sponsored by the University of Maribor (Bled, Slovenia, 7-9 June 1999);

(e) Fourth Meeting of the Committee of Experts on Electronic Commerce of the Free Trade Area of the Americas of the Organization of American States (Miami, Florida, United States, 14-16 June 1999);

(f) International Bar Association Seminar on Insolvency and Fraud—Insolvency and Suggestions for Legislative Improvement (Copenhagen, 13-15 June 1999);

(g) UNCTAD Expert Group Meeting on Electronic Commerce (Geneva, Switzerland, 14-16 July 1999);

(h) Annual Conference of the International Bar Association (Barcelona, Spain, 26 September-2 October 1999);

(i) UNCITRAL/INSOL International Judicial Colloquium and the European Insolvency Practitioners Association/INSOL International Joint Congress (Munich, Germany, 13-17 October 1999);

(j) Chartered Institute of Arbitrators Millennium Conference (London, 18 and 19 November 1999);

(k) Forum on Electronic Commerce, sponsored by OECD (Paris, 12 and 13 October 1999);

(l) INSOL International Conference on Insolvency Law (Delhi, 26 February 2000);

(m) South Asian Association for Regional Cooperation Law Conference sponsored by the Federation of Indian Chambers of Commerce and Industry (Delhi, 1 March 2000);

(n) International Council for Commercial Arbitration Conference 2000 (Delhi, 2-4 March 2000);

(o) Arbitration Seminar, sponsored by the Federation of Nepalese Chambers of Commerce and Industry (Kathmandu, 7 and 8 March 2000);

(p) Central Europe and Baltic States Regional Insolvency Workshop, sponsored by EBRD and the World Bank (Bratislava, 14 and 15 March 2000).

VI. Internship programme

15. The internship programme is designed to give young lawyers the opportunity to become familiar with the work of UNCITRAL and to increase their knowledge of specific areas in the field of international trade law. During the past year, the Secretariat has hosted nine interns from Australia, Germany, Poland, Spain and the United States. Interns are assigned tasks such as basic or advanced research, collection and systematization of information and materials or assistance in preparing background papers. The experience of UNCITRAL with the internship programme has been positive. As no funds are available to the Secretariat to assist interns to cover their travel or other expenses, interns are often sponsored by an organization, university or government agency or they meet their expenses from their own means. In this connection, the Commission may wish to invite Member States, universities and other organizations, in addition to those which already do so, to consider sponsoring the participation of young lawyers in the United Nations internship programme with UNCITRAL.

16. In addition, the Secretariat occasionally accommodates requests by scholars and legal practitioners who wish to conduct research in the Branch and in the UNCITRAL law library for a limited period of time.

VII. Future activities

17. For the remainder of 2000, seminars and legal assistance briefing missions are being planned in central and eastern Asia, the Caribbean and the Middle East. Since the cost of training and technical assistance activities is not covered by the regular budget, the ability of the Secretariat to implement those plans is contingent upon the receipt of sufficient funds in the form of contributions to the UNCITRAL trust fund for symposia.

18. As it has done in recent years, the Secretariat has agreed to co-sponsor the next three-month international trade law post-graduate course to be organized by the University Institute of European Studies and the International Training Centre of ILO in Turin. Typically, approximately half the participants are from Italy, with

many of the remainder coming from developing countries. The contribution from the UNCITRAL secretariat to the next course will focus on issues of harmonization of laws on international trade law from the perspective of UNCITRAL, including past and current work.

VIII. Financial resources

19. The Secretariat continues its efforts to devise a more extensive training and technical assistance programme to meet the considerably greater demand from States for training and assistance, in keeping with the call of the Commission at its twentieth session for an increased emphasis both on training and assistance and on the promotion of the legal texts prepared by the Commission. However, as no funds for UNCITRAL seminars are provided for in the regular budget, expenses for UNCITRAL training and technical assistance activities (except for those which are supported by funding agencies such as the World Bank) have to be met from voluntary contributions to the UNCITRAL trust fund for symposia.

20. Given the importance of extrabudgetary funding for the implementation of the training and technical assistance component of the UNCITRAL work programme, the Commission may again wish to appeal to all States, international organizations and other interested entities to consider making contributions to the UNCITRAL trust fund for symposia, in particular in the form of multi-year contributions, so as to facilitate planning and to enable the Secretariat to meet the increasing demands from developing countries and States with economies in transition for training and assistance. Information on how to make contributions may be obtained from the Secretariat.

21. In the period under review, contributions were received from Canada, Cyprus, Greece, Mexico and the United Kingdom. The Commission may wish to express its appreciation to those States and organizations which have contributed to the Commission's programme of training and assistance by providing funds or staff or by hosting seminars.

22. In that connection, the Commission may wish to recall that, in accordance with General Assembly resolution 48/32 of 9 December 1993, the Secretary-General was requested to establish a trust fund to grant travel assistance to developing countries that are members of UNCITRAL. The trust fund so established is open to voluntary financial contributions from States, intergovernmental organizations, regional economic integration organizations, national institutions and non-governmental organizations, as well as to natural and juridical persons.

23. At its thirty-first session, the Commission noted with appreciation that the General Assembly, in its resolution 52/157 of 15 December 1997, had appealed to Governments, the relevant United Nations organs, organizations, institutions and individuals, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to make voluntary contributions to the trust fund for granting travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General.

24. Since the establishment of the trust fund, contributions have been received from Cambodia, Kenya and Singapore.

25. It is recalled that in its resolution 51/161 of 16 December 1996, the General Assembly decided to include the trust funds for symposia and travel assistance in the list of funds and programmes that are dealt with at the United Nations Pledging Conference for Development Activities.

Notes

[1] *Official Records of the General Assembly, Forty-second Session, Supplement No. 17* (A/42/17), para. 335.

[2] *Official Records of the United Nations Conference on Contracts for the International Sale of Goods, Vienna, 10 March-11 April 1980* (United Nations publication, Sales No. E.82.V.5), part I).

[3] *Official Records of the United Nations Conference on Prescription (Limitation) in the International Sale of Goods, New York, 20 May-14 June 1974* (United Nations publication, Sales No. E.74.V.8), part I).

[4] United Nations, *Treaty Series*, vol. 330, No. 4739.

[5] *Official Records of the General Assembly, Thirty-first Session, Supplement No. 17* (A/31/17), para. 57.

[6] Ibid., *Thirty-fifth Session, Supplement No. 17* (A/35/17), para. 106.

[7] Ibid., *Fortieth Session, Supplement No. 17* (A/40/17), annex I.

[8] Ibid., *Fifty-first Session, Supplement No. 17* (A/51/17), chap. II.

[9] *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 17* and corrigendum (A/49/17 and Corr.1), annex I.

[10] Ibid., *Forty-seventh Session, Supplement No. 17* (A/47/17), annex I.

[11] Ibid., *Fifty-second Session, Supplement No. 17* (A/52/17), annex I.

[12] *Official Records of the United Nations Conference on the Carriage of Goods by Sea, Hamburg, 6-31 March 1978* (United Nations publication, Sales No. E.80.VIII.1), document A/CONF.89/13, annex I.

[13] A/CONF.152/13, annex.

[14] Ibid., *Fifty-first Session, Supplement No. 17* (A/51/17), annex I.